

RECEIVED
FEDERAL ELECTION
COMMISSION

RECEIVED
FEC MAIL CENTER
2011 JUN 14 PM 3:57

2011 JUN 15 AM 10:28

OFFICE OF GENERAL
COUNSEL

BEFORE THE
FEDERAL ELECTION COMMISSION
OF THE
UNITED STATES OF AMERICA

In the Matter of:

Lois Frankel for Congress (C00494856)

MUR 6476

Lois J. Frankel, in her capacity as both
Candidate and Treasurer of Lois Frankel
For Congress

Complaint

NATIONAL LEGAL AND POLICY CENTER, a corporation organized and doing business under the District of Columbia Nonprofit Corporation Act and having its offices and principal place of business at 107 Park Washington Court, Falls Church, Virginia 22046, files this complaint with the Federal Election Commission pursuant to 2 USC § 437g.

The primary purpose of the National Legal and Policy Center, a charitable and educational organization described in section 501(c)(3) of the Internal Revenue Code, is to foster and promote ethics in government and public life.

The Respondents are a Lois Frankel for Congress (C00494856), a congressional campaign committee filed with the Federal Election Commission and Lois J. Frankel, who is both the candidate as well as Treasurer of Lois Frankel for Congress.

Respondents

LOIS FRANKEL FOR CONGRESS (C00494856), P. O. Box 775, West Palm Beach, FL 33402

LOIS J. FRANKEL, P. O. Box 775, West Palm Beach, FL 33402

Facts

Virtually all material facts relied upon in this complaint are accompanied by source citations. For the most part, these sources are documents filed with the Federal Election Commission and news articles.

Lois Frankel is an attorney who has served many years as an elected official in Florida, first in the state legislature and then as Mayor of West Palm Beach. She was not

permitted to run for an additional term as mayor due to term limits, so at some point in 2011 she decided to run for Congress in Florida's 22nd Congressional district.

Lois Frankel announced she was running for Congress on Monday, March 21, 2011.¹

Frankel for Congress filed its Statement of Organization, FEC Form 1, with the Federal Election Commission. The form was date-stamped as received on April 5, 2011 although date listed in Line 2, designated for the date the committee passed the \$1,000 threshold and became a political committee, was March 21, 2011.

The FEC Form 1 designated Lois J. Frankel as the committee's treasurer.

Prior to the filing of the FEC Form 1 and the designation of a treasurer, Lois Frankel for Congress had already raised more than \$40,000.²

The Frankel for Congress April 15 Quarterly Report had a much more serious problem than just the fact that the campaign had been raising substantial funds without an FEC Form 1 filed or a Treasurer designated.

The Quarterly Report reported that the campaign had taken in \$254,605 in contributions³ but had recorded only \$706.04 in Net Operating Expenditures.⁴

Of the low \$706.04, \$500 was an in-kind donation of office space.⁵ The second payment was for \$206.04 by the campaign to Deluxe for Business for "Business checks and supplies."⁶

Is it humanly possible to raise over \$254,605 without any other expenditures?

The Report also indicated that the campaign owed no debts of any kind,⁷ had no loans,⁸ and had cash on hand at the quarter's end of \$253,898.96.⁹

Put simply, the campaign's quarterly report claimed what has to be a record-high net income in the history of congressional campaign finance.

¹ Anthony Man, "Outgoing West Palm mayor to challenge U.S. Rep. Allen West," *South Florida Sun Sentinel*, March 22, 2011.

² Lois Frankel for Congress, Report of Receipts and Disbursements, FEC Form 3, April 15 Quarterly Report filed on April 15, 2011.

³ *Ibid.* at Line 6 (c)

⁴ *Ibid.* at Line 7 (c)

⁵ *Ibid.* at page 69

⁶ *Ibid.* at page 69

⁷ *Ibid.* at Line 10

⁸ *Ibid.* at Line 13

⁹ *Ibid.* at Line 27

Put another way: how is it possible to bring in \$254,605 in contributions with no other expenditures than checks and an in-kind donation of office space in less than a month?

The publicly available facts tell quite a different story.

Public records and news articles indicate strongly what common sense suggests: Frankel for Congress expended quite a bit of money to raise more than a quarter of a million dollars in March 2011.

Issues

1. **Who paid for the direct mail fund-raising letters sent out by Frankel for Congress?**

Anyone familiar with direct mail fund raising knows that it can be an extraordinarily expensive way to raise funds for a political campaign. In the Frankel campaign, if her FEC Form 3 is to be believed, her campaign raised a fortune with zero costs.

There is little doubt that Frankel used direct mail.

West Palm Beach Mayor Lois Frankel (D) "says in a fund-raising letter that it's 'critically important' that she snag" \$100k in contributions for her just-launched campaign against Rep. Allen West (R) by 3/31, the end of the FEC's 1Q deadline.¹⁰

Raising a substantial sum of money by direct mail calls for postage, printing and list rental. Soliciting major gifts generally calls for a more expensive package including computerized personalization. We know that the Frankel April 15 Quarterly Report stated that only \$3,955. of the more than \$250,000 raised came from unitemized contributions, i.e., contributions of \$200 or less.

We also note that the Frankel for Congress Committee disclosed no expenditures whatsoever for postage, printing, list rental, or computerized personalization.

If the campaign benefitted from an expensive direct mail campaign without paying for any direct mail costs, then the key question is how were the direct mail costs paid?

¹⁰ "Needing the Bling," *National Journal's House Race Hotline*, March 31, 2011

See also: George Bennett, "Six-figure initial haul for Frankel's congressional campaign?", Post on Politics at: <http://www.postonpolitics.com/2011/03/six-figure-initial-haul-for-frankels-congressional-campaign/>

12044312239

If a corporation or a political fund including corporate funds paid, that payment would appear to be a clear violation of the law against the use of corporate funds in a federal election campaign.

If an individual paid, the chances are that such an in-kind contribution exceeded the campaign contribution limits.

2. Who paid for the domain name and the web hosting costs for the Frankel for Congress Committee?

The Frankel campaign operates a web page to support the campaign at www.loisfrankelforcongress.com.

The home page states, "Paid for by Lois Frankel for Congress."

A search of the WHOIS web registration page shows that loisfrankelforcongress.com was created on March 12, 2011.

There were no expenditures in the Frankel for Congress Committee April 15 First Quarter Report for the purchase of a domain name, web hosting fees or any expenditures whatsoever related to the web page.

Someone other than the campaign made those payments. The public and the FEC deserve to know who is paying for the Frankel for Congress Committee's expenditures.

3. Who paid for the Frankel for Congress Committee's hiring of Brian Smoot as a consultant to the campaign?

Brian Smoot was the campaign manager in 2006 for Rep. Ron Klein, the Congressman who held the 22nd district seat until he was defeated by the present incumbent in 2010.

A March 22, 2011 news article states that Frankel "has hired Klein's 2006 campaign manager, Brian Smoot, as a consultant."¹¹

The Frankel April 15th First Quarter Report to the FEC covers all expenditures from Jan. 1, 2011 through March 31, 2011. There is no disclosure of any expenditure for the hiring of Brian Smoot or anyone else.

Yet if he was hired by the campaign and the campaign made no payments, who did?

4. Who paid for the Frankel for Congress Committee's P.O. Box?

¹¹ Anthony Man, "Outgoing West Palm mayor to challenge U.S. Rep. Allen West," *South Florida Sun Sentinel*, March 22, 2011.

The campaign's April 15 First Quarterly Report, the campaign's Statement of Organization, Statement of Candidacy and the campaign's web page all list the campaign address as P.O. Box 775, West Palm Beach, FL 33420.

There is no record in the April 15 First Quarterly Report of a payment for a post office box, yet someone paid for it. The issue is why did the Frankel campaign fail to disclose who made this payment?

5. Who paid to incorporate the Frankel for Congress and who paid for the campaign's registered agent?

The Lois Frankel for Congress Committee was incorporated as a domestic non-profit corporation on March 11, 2011. The registered agent was listed as Corporate Creations Network, Inc. This public record is on file at the Florida Department of State, Division of Corporations, with the Document Number N11000002524.

Despite the fact that the incorporation and the listing of the commercial registered agent was filed on March 11, 2011, the Frankel April 15 First Quarter Report to the FEC has no expenditure for the incorporation fee and no expenditure for the registered agent.

Again, it is clear that someone other than the campaign is paying the campaign's expenses.

6. Who paid for the campaign's phone?

It is clear that in March the Frankel for Congress Committee was using a phone for the campaign's efforts. The number (561) 506-4148 was listed on both the campaign's web page as well as the Statement of Organization FEC Form 1 filed with the FEC.

Telephone services for congressional campaigns are potentially very expensive. In this case, we know that the Frankel for Congress Committee's April 15 First Quarter Report to the FEC showed no expenditure for any telephone service.

Telephone service for campaigns is not free, so someone paid for it. It wasn't Frankel's campaign, but it ~~sure~~ should have been.

Conclusion

The gravamen of this complaint could hardly be more obvious: Frankel for Congress Committee apparently has decided to run an off-the-books campaign with respect to campaign expenditures.

The heart and soul of the Federal Election Campaign Act is transparency. The principal mission of the Federal Election Commission is to ensure the public's right to know basic information about how campaigns are financed.

12044312241

This is a campaign which took in more than \$250,000 in a short period and yet almost none of the ordinary expenditures have been disclosed. The campaign has claimed they will raise millions and will have all the resources they need.

It is difficult to imagine a more flagrant violation of the public's right to know.


This is not a campaign run by some naïve first-time candidate. Ms. Frankel is an attorney, served many terms in the state legislature and two terms as mayor of West Palm Beach. She has even been a congressional candidate before.

This case clearly calls for a full and prompt investigation by the Federal Election Commission. Since FEC regulations call for campaigns to keep all appropriate documents related to contributions and expenditures, simply requesting those documents associated with the ghost expenditures may very well answer the question as to who is paying for this campaign's numerous expenses.

And since it does not appear to be the campaign, other serious issues are raised as to the identity of the campaign's secret benefactor.

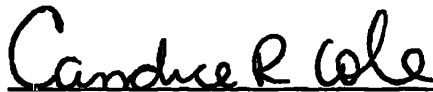
Anything less than a serious investigation would undermine the confidence of the public in the integrity of the campaign finance system.

Complainant upon information and belief, swears under penalty of law that the statements and facts of this complaint are true and correct to the best of his ability.



Peter T. Flaherty, President
National Legal and Policy Center

Subscribed and sworn before me this 14th day of June 14, 2011



Notary Public

Candice Cole
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 307562
My Commission Expires 8/31/2013